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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

NATIONAL CASUALTY COMPANY, a  
Wisconsin corporation,

Plaintiff,

v.

EFREN ISAAC SOTELO, an individual; and  
PHILIP MICHAEL BOUCHARD, an  
individual,

Defendants.

Case No. 2:17-cv-02456-KJD-CWH

**STIPULATION AND ORDER TO EXTEND  
JOINT PRE-TRIAL ORDER**

**(SECOND REQUEST)**

Plaintiff National Casualty Company (hereinafter "NCC"), by and through its counsel, Eric S. Powers of Selman Breitman LLP, and defendant Philip Michael Bouchard (hereinafter "Bouchard"), by and through his counsel, Jordan P. Schnitzer of The Schnitzer Law Firm, hereby submit the following stipulation to extend the joint pre-trial order deadline in the above – entitled action by thirty (30) days. This is the first request for enlargement of the joint pre-trial order deadline.

**I.**

**INTRODUCTION**

This is an insurance declaratory relief action. This action arises from a car accident between

Defendant Efren Sotelo ("Sotelo") and Bouchard. Sotelo is a former employee of his father's business, Cool Air. Sotelo was allegedly terminated from employment and required to return the Cool Air keys, gas card, uniform and other company property in his possession. Effective that date, Cool Air claims Sotelo was no longer authorized to operate any Cool Air vehicles. Allegedly unbeknownst to Sotelo's father or Cool Air, Sotelo had made unauthorized copies of some Cool Air keys, including a key to Cool Air's 2005 Chevrolet 1500 pickup truck (the "Chevy").

On December 12, 2014, NCC contends Sotelo stole the Chevy using his copied key. His father filed a police report and asked the Las Vegas Metropolitan Police Department to prosecute Sotelo for the theft. On December 17, 2014, a criminal case was opened; and on February 15, 2015, Sotelo pled guilty to a misdemeanor charge for taking an item worth less than \$650. Sotelo testified that he did not have permission to use the Chevy on December 12, 2014. See Exhibit A attached to NCC's Complaint on file herein.

Sotelo allegedly caused an accident by rear ending a vehicle driven by Philip Bouchard. On July 27, 2016, Bouchard filed a complaint for negligence against Efren, Juan, and Cool Air. That action is pending, and is styled Bouchard v. Efren Isaac Sotelo, et al., in the Eighth Judicial District Court, Clark County District Court Case No. A-16-740711-C (the "Underlying Action"). NCC is informed and believes, and based thereon alleges, that Bouchard seeks damages in excess of \$75,000 in that action.

NCC is defending its insureds, Juan Sotelo (Sotelo's father) and Cool Air, in that action.

## II.

### **DISCOVERY COMPLETED BY THE PARTIES**

The parties have completed the following discovery to date:

The Parties held a telephonic 26(f) Conference on or around December 1, 2017.

- Plaintiff served their initial FRCP 26 disclosures on June 13, 2018;
- Defendants served their initial FRCP 26 disclosures on June 13, 2018;
- Defendants served their First Set of Requests for Production of Documents on January 14, 2018;

- Plaintiff served its Responses to Defendants First Set of Requests for Production of Documents on February 21, 2018;
- Defendants served their Second Set of Requests for Production of Documents on February 2, 2018;
- Plaintiff served its Responses to Defendants First Set of Requests for Production of Documents on April 6, 2018;
- The Parties filed their Interim Status Report on April 16, 2018.

## II.

### **DISCOVERY WHICH REMAINS TO BE COMPLETED**

None. The parties have completed discovery in this matter. Defendants filed on Motion to Compel on June 12, 2018 [Doc. 36]. After hearing on the Motion to Compel, the Magistrate Court entered an Order Denying the same and issuing sanctions against Defendants [Doc. 46]. Defendants filed an Objection/Appeal of the Magistrate Judge Order on July 30, 2018 [Doc 47]. Further discovery could be warranted depending on the outcome of Defendants' objection.

Plaintiff filed its Motion for Summary Judgment on July 12, 2018 Doc. 44] that is now fully briefed and pending this Court's decision. The parties seek a sixty (60) day extension to further attempt to resolve these pending issues on Plaintiff's Motion for Summary Judgment and Defendant's Motion to Compel.

## III.

### **REASONS WHY SUCH REMAINING DISCOVERY CANNOT BE COMPLETED WITHIN THE TIME LIMIT OF THE EXISTING DEADLINE**

The parties seek only to extend the Pre-Trial Order deadline in this case. Specifically, Defendants filed a Motion to Compel which was denied. The Motion to Compel has been appealed to the district court. The parties seek to attempt to resolve the pending Appeal of the Motion to Compel prior to filing pre-trial order in this matter. Moreover, the parties would like resolution on Plaintiff's Motion for Summary Judgment that was timely filed before this Court

1 prior to submitting the same.

2 Accordingly, the parties seek a sixty (60) day extension of time to file the Joint Pre-Trial  
3 Order in this case. Good cause and excusable neglect exist for extending the time to file the Joint  
4 Pre-Trial Order because the parties are awaiting decisions on important issues in the case. A sixty  
5 (60) day extension will not cause undue delay or prejudice to either party. This is the parties'  
6 second request for an extension and this request is being submitted in good faith.

7 **IV.**

8 **PROPOSED SCHEDULE FOR PRE-TRIAL ORDER DEADLINE**

9 Based on the foregoing, the parties hereby stipulate and agree that the following Pre-Trial  
10 Order deadline be substituted for the corresponding deadline contained in the Joint Discovery Plan and  
11 Scheduling Order:

- 12 1. Discovery Cut-Off Date. No Change.
- 13 2. Expert Disclosures Pursuant to Federal Rule of Civil Procedure 26(a)(2): No Change.
- 14 3. Dispositive Motions: No Change.
- 15 4. Pre-Trial Order: The current pre-trial order deadline September 12, 2018, shall be  
16 extended sixty (60) days to Monday, November 12, 2018.

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18 WHEREFORE, the Parties hereby stipulate and agree to modify the Scheduling Order in  
19 order to extend the Pre-Trial Order deadline as stated above.  
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This report is signed in accordance with Rule 11 of the Federal Rules of Civil Procedure.

DATED: August 12, 2018

SELMAN BREITMAN LLP

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DATED: August 12, 2018

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Attorneys for Defendant PHILIP MICHAEL  
BOUCHARD

IT IS SO ORDERED.

DATED: September 13, 2018

  
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HON. CARL W. HOFFMAN  
MAGISTRATE JUDGE OF THE UNITED STATES  
COURT FOR THE DISTRICT OF NEVADA